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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

SEP 10 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Sections of the Cable)
Television Consumer Protection)
and Competition Act of 1992)

MM Docket No. 92-266

REPLY OF GTE

GTE Service Corporation ("GTE"), on behalf of the GTE Domestic Telephone Operating Companies and GTE Laboratories Incorporated, hereby responds to the comments of others on the Further Notice in the above-captioned proceeding.¹

In its own Comments of August 31st, GTE submitted that the statutory term "burden" is relative, and that the FCC is entitled to examine effects of its rate regulation rules in relation to the resources a given cable company may devote to compliance. Noting the existence of some economies of scale and efficiencies of administrative consolidation in the cable industry, GTE said that certain kinds of burdens and costs might be lower for Multiple System Operators (MSOs) than for independent systems.

Several commenters acknowledge that burdens and costs may vary with system size and corporate structure.² Most contend, however, that these

¹ The Further Notice bears the number FCC 93-389 and was released August 10th. It is not to be confused with the Further Notice incorporated in the initial rates order in Docket 92-266, FCC 93-177, released May 3, 1993.

² Coalition of Small System Operators (7), Union Telephone (7), NCTA (7), Falcon (8-9).

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variations are not sufficient to overcome Congress' refusal, in Section 623(i) and accompanying legislative history, to differentiate between MSO-affiliated and independent systems.

GTE agrees that, in debating an increase in the small-system category from 500 to 1,000 subscribers, the House declined to make ownership or corporate structure a criterion. Thus, adherence to Congressional intent would seem to require some floor of relief under small systems generally, whether MSO or independent. For example, in the initial rates order, the FCC appeared persuaded that only certain burdens of notice, reporting and record-keeping needed to be reduced for all small systems even-handedly. The agency forcefully declined more drastic measures, such as exemption from rate regulation or a presumption that small-system rates are reasonable. (§462)³

That the statute may require uniform application of some minimum relief does not preclude the Commission from providing additional concessions to those independent systems which are not only small but lack the advantages of aggregation or consolidation possessed by many MSOs. If the agency determines to grant such extra relief, it should act where the most good can be accomplished -- that is where the single system or small MSO truly is disadvantaged.⁴

For the reasons given, GTE believes that the FCC may differentiate in Section 623(i) remedies as between independent and MSO-affiliated systems, so

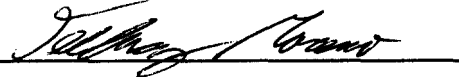
³ Section 623(i) is confined by its terms to relief from administrative and cost burdens associated with rate regulation. Thus the discussion of existing rules which treat all small systems alike, such as syndicated or network program exclusivity regulations, or of other requirements imposed by the 1992 Act -- for example, must-carry/retransmission consent and customer service standards -- is beyond the scope of this proceeding.

⁴ Despite the complaint from several small-system representatives that they lack the bargaining leverage of large MSOs in obtaining programming discounts, this does not seem to require special remedy so long as the Commission is determined to allow program costs to be flowed through to subscribers. That a small system's expenses may be higher than those of a larger operator does not detract from the opportunity to recover the costs.

long as some floor of relief is placed under all small systems without reference to ownership or corporate structure.

Respectfully submitted,

GTE SERVICE CORPORATION

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September 10, 1993

ITS ATTORNEYS

Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Reply of GTE" have been mailed by first class United States mail, postage prepaid, on the 10th day of September, 1993 to all parties of record.



Ann D. Berkowitz